

Philip J. Berg, Esquire
Pennsylvania I.D. 9867
LAW OFFICES OF PHILIP J. BERG
555 Andorra Glen Court, Suite 12
Lafayette Hill, PA 19444-2531
Telephone: (610) 825-3134
E-mail: philjberg@gmail.com

Attorney in pro se and for Plaintiffs

Lisa Ostella and
Go Excel Global, Plaintiffs
c/o Philip J. Berg, Esquire
555 Andorra Glen Court, Suite 12
Lafayette Hill, PA 19444-2531

Lisa Liberi, Plaintiff
c/o Philip J. Berg, Esquire
555 Andorra Glen Court, Suite 12
Lafayette Hill, PA 19444-2531

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION**

LISA LIBERI, et al,

Plaintiffs,

vs.

ORLY TAITZ, et al,

Defendants.

CIVIL ACTION NUMBER:

8:11-cv-00485-AG (AJW)

**PLAINTIFFS MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR EX PARTE
APPLICATION**

Date of Hearing: May 31, 2011
Time of Hearing: 10:00 a.m.
Location: Courtroom 10D

**PLANTIFFS MEMORANDUM OF POINTS and AUTHORITIES IN
SUPPORT OF THEIR APPLICATION FOR AN EX PARTE ORDER**

ARGUMENT

**I. SUBSTANTIAL PREJUDICE WILL OCCUR IF THE TIME
FOR A HEARING ON THE MOTION FOR LEAVE TO
AMEND THEIR COMPLAINT and FOR AN ORDER THAT
LEAVE IS REQUIRED PRIOR TO THE FILING OF ANY
MOTIONS, IS NOT SHORTENED**

3. Federal Rule of Civil Procedure [“Fed. R. Civ. P.”] 6(c) allows the Court to Order a Motion to be heard on an accelerated basis “for good cause.” *Fed. R. Civ. P.* 6(c)(1)(C). Moreover, *C.D. Cal. Civ. L.R.* 6-1 provides that a court may order a shorter time.

4. Plaintiffs Application Ex Parte for an Order on Plaintiffs Motion for Leave to Amend their Complaint or in the alternative Plaintiffs request to Shorten Time is based on the fact, counsel and/or the Plaintiffs must fly into California every time a Hearing is set, which is extremely expensive. Defendant Taitz on behalf of herself and Defendant Freedoms Foundations, Inc. [hereinafter at times “DOFF”] filed a Motion with this Court to “Terminate” Philip J. Berg, Esquire as counsel for the Plaintiffs, even though Mr. Berg has been representing the Plaintiffs since May 4, 2009; even though Mr. Berg is Plaintiffs Choice of Counsel; Mr. Berg is very familiar with this Case and the events thereto and ready

1 to continue his representation in California. This Hearing is set for May 9, 2011
2 before this Court.

3
4 5. In addition, on April 25, 2011, Taitz has filed another Motion to
5 Dismiss this Case pursuant to Anti-SLAPP and *Fed. R. Civ. P.* 12(b)(1) and
6 12(b)(6). This Hearing date has been set for May 23, 2011 before this Court.
7
8 Although Taitz has filed a previous Anti-SLAPP Motion, almost identical to this
9 one, and numerous Rule 12 Motions, which have all been litigated and adjudicated,
10 even though the repeated filing are inappropriate and incompliant with the *Fed. R.*
11 *of Civ. P.* Moreover, the Scheduling Conference has been set in this Case for June
12 6, 2011.
13
14

15 6. As this Court is aware, the filing of an Amended Complaint moots
16 any pending Motions to Dismiss, including Anti-SLAPP Motions. There is **no**
17 reason to have a Hearing on May 23, 2011 and another Hearing on May 31, 2011,
18 a week apart, if this Court is inclined to Grant Plaintiffs Motion and allow them to
19 file their First Amended Complaint. Not that Mr. Berg minds appearing before
20 Your Honor, there is simply **no** reason to have Mr. Berg fly in every week, when it
21 is more cost efficient to have Plaintiffs Motion for Leave to Amend their
22 Complaint heard on the 9th of May at the same time as Defendants Motion, if the
23 Court feels a Hearing is necessary.
24
25
26
27
28

1 7. Moreover, as the Docket clearly indicates, on Thursday, April 28,
2 2011, the Court sent a deficiency notice to Taitz regarding her Motion to Dismiss.
3
4 Taitz again has **not** followed the rules of this Court, her brief is too long, the brief
5 is single spaced instead of double in many places, Taitz failed to number her
6 paragraphs, and she did **not** give enough notice with the date of the Hearing she
7 chose. It should also be noted, Taitz continues referring to Evelyn Adams as a
8 Plaintiff herein. Ms. Adams is a Plaintiff in the Texas case, **not** the California
9 case.
10
11

12 8. Plaintiffs will be severely prejudiced if this Court denies their request
13 to shorten time. The travel expenses alone are extremely expensive and it takes
14 Counsel away from his Office for several days at a time for a Hearing on
15 Defendant Taitz's Motion to Dismiss, which will be deemed moot, once Leave is
16 Granted for Plaintiffs to file their First Amended Complaint. Plaintiffs must
17 Respond to Taitz's Motion, again which will be moot once the Court Grants
18 Plaintiffs Leave to Amend their Complaint. There is **no** question in the Plaintiffs
19 minds that once Plaintiffs are Granted Leave to file their Amended Complaint, and
20 actually file their First Amended Complaint, Defendant Taitz will bring forth yet
21 another Motion to Dismiss, which will require another Hearing.
22
23
24
25

26 9. Moreover, when the case was in Pennsylvania, the Court on its own
27 issued an Order that all parties were to seek Leave of Court prior to the filing of
28

1 any Motions. It slowed Defendant Taitz down from filing Motions, however,
2 despite the Court's Order; Taitz continued filing Motions without first seeking
3 Leave, in violation of the Court's Order. Taitz will continue filing Motions,
4 having Hearings set, wasting judicial resources to ensure she makes it so expensive
5 for Plaintiffs; they will **not** be able to litigate their case. For this reason, to stop the
6 clogging of the Court's Docket; and to stop the allowance of convoluting the Case,
7 this Court must issue an Order Preventing the Filing of any Motions without first
8 seeking Leave.

12 10. Pursuant to this Court's Local Rule, 7-19, the party seeking the Ex
13 Parte Order is to furnish the counsel's name, address, telephone number and email
14 address of counsel for the opposing party, or the parties in pro se. In compliance
15 herewith, Counsel and the pro se parties are as follows:

18 Philip J. Berg, Esquire
19 Lisa Liberi
20 Lisa Ostella
21 555 Andorra Glen Court, Suite 12
22 Lafayette Hill, PA 19444
23 Office: (610) 825-3134
24 Cell: (610) 662-3005
25 Fax: (610) 834-7659
26 Email: philjberg@gmail.com

27 *Attorney for Plaintiffs*

28 //
//
//
//
//

1 Orly Taitz
2 Defend our Freedoms Foundation, Inc.
3 26302 La Paz Ste 211
4 Mission Viejo, CA 92691
5 Ph: [\(949\) 683-5411](tel:(949)683-5411)
6 Fax: (949) 586-2082
7 Email: orly.taitz@gmail.com and
8 Email: dr_taitz@yahoo.com

9 *Attorney in Pro Se and for Defend our Freedoms Foundations, Inc.*

10 The Sankey Firm, Inc.
11 2470 Stearns Street #162
12 Simi Valley, CA 93063
13 Ph: (805) 520 3151
14 FAX: (805) 520 5804
15 Email: todd@thesankeyfirm.com

16 *Defendant in Pro Se*

17 Neil Sankey
18 Sankey Investigations, Inc.
19 P.O. Box 8298
20 Mission Hills, CA 91346
21 Ph: (805) 520-3151
22 Cell: (818) 212-7615
23 Email: nsankey@thesankeyfirm.com

24 *Defendants in Pro Se*

25 11. Pursuant to this Court's L.R. 7-19.1, it is Counsel moving for the Ex
26 Parte Order to "(a) to make reasonable, good faith efforts orally to advise counsel
27 for all other parties, if known, of the date and substance of the proposed ex parte
28 application; and (b) to advise the Court in writing and under oath of efforts to
contact other counsel and whether any other counsel, after such advice, opposes

1 the application. In compliance with this Court's rule, counsel emailed all parties
2 on Wednesday, April 27, 2011 and sent a letter via facsimile on Wednesday, April
3 27, 2011 prior to the filing of the within Application and Motion for Leave of
4 Court to file Plaintiffs First Amended Complaint; and for an Order that parties
5 must seek Leave of Court prior to the filing of any Motions. Counsel's email and
6 letter are attached to Mr. Berg's Declaration filed concurrently herewith.
7

8
9 12. As of the date of filing, Berg received an out-of-office reply from
10 Todd Sankey of the Sankey Firm, Inc.; all Plaintiffs received an email from Orly
11 Taitz threatening the Plaintiffs with Attorney fees and threatening to report Berg
12 for practicing law without a license and claimed Plaintiffs Motion was frivolous.
13 Taitz stated she would oppose Plaintiffs Ex Parte Application and Motion. As of
14 the date of filing, Neil Sankey on behalf of Sankey Investigations and the Sankey
15 Firm, Inc. had **not** replied.
16
17
18

19 13. Despite Counsel's efforts, as this Court is aware, this Court has the
20 inherent Power to Grant Plaintiffs Motion Granting them Leave to file their First
21 Amended Complaint; and issue an Order that Parties must seek Leave of Court
22 prior to filing any Motions with the Court, without notice being provided. *See this*
23 *Court's L.R. 7-19.2.*
24
25

26 //
27 //
28 //

